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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,481

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Satoshi Ando

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04/17/2008

WENDEROTH, LIND & PONACK, L.L.P.

2033 K STREET N. W.

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WASHINGTON, DC 20006-1021

EXAMINER

SIKRI, ANISH

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/809,481	Applicant(s) ANDO ET AL.	
	Examiner ANISH SIKRI	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/10/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-14 are cancelled.

Information Disclosure Statement

The information disclosure statement submitted on 1/10/2008 been considered by the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 15-16, 18-20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swander et al (US Pub 20050022011), in view of Morehead et al, (US Pub 20020077801), and in further in view of Pandya et al (US Pat 7260635).

Consider Claim 15, Swander et al discloses the method of controlling access of a terminal to a server, the access being controlled via a repeater (Swander et al, [0048]), the terminal being from an outside network and the server being from an inside network, the inside network and the outside network being connected via the repeater (Swander et al, [0048]), and the method comprising: permitting, via the repeater, a transmission of packets from the terminal to the server (Swander et al, [0048]), and limiting, via the repeater, the transmission of the packets according to first conditions, the packets including authentication information (Swander et al, ([0141], [0227])); changing conditions limiting the transmission of the packets by generating, from the first conditions ([0141], [0227]). Swander et al does disclose on how client—servers in public and private networks can communicate with the use of repeaters (Swander et al, [0048]), along with sending packets with authentication information (Swander et al, [0141], [0227]).

But Swander et al fails to disclose the conditions being changed to the second conditions when the server acknowledges a connection between the server and the terminal.

Nonetheless, Morehead et al discloses on the second condition in which the the server acknowledges a connection between the server and the terminal in which the transmission of the packets (Morehead et al, [0011]). Morehead et al does disclose that the server is able to maintain and initiating multiple connections to servers/terminals/clients/remote consoles (Morehead et al, [0011]). Therefore it would

have been obvious to a person skilled in the art at the time of the invention to make use of a server which can initiate connections to terminals, taught by Morehead et al, in the system of Swander et al for the purpose of creating connections between servers and terminals in private and public networks with the use of repeaters.

But Swander et al-Morehead et al fail to disclose on how the transmission of the packets is limited according to the first conditions; and controlling the repeater to limit the transmission of the packets according to the second conditions, wherein each of the first conditions and each of the second conditions represent a bandwidth limitation of the transmission of the packets, and wherein the bandwidth limitation represented by each of the first conditions is narrower than the bandwidth limitation represented by the second conditions.

Nonetheless, Pandya et al discloses transmission of the packets is limited according to the first conditions; and controlling the repeater to limit the transmission of the packets according to the second conditions (Pandya et al, Col 2 Lines 37-52, Col 8 Lines 46-57), wherein each of the first conditions and each of the second conditions represent a bandwidth limitation of the transmission of the packets (Pandya et al, Col 2 Lines 37-52, Col 8 Lines 46-57), and wherein the bandwidth limitation represented by each of the first conditions is narrower than the bandwidth limitation represented by the second conditions (Pandya et al, Col 2 Lines 37-52, Col 8 Lines 46-57). Pandya et al discloses on how the bandwidth limit can be applied to the network, the bandwidth can be either raised or lowered. Therefore it would have been obvious to a person skilled in the art at the time of the invention to make use of bandwidth limit or throttling to control

the flow of packets/data/transmission, taught by Pandya et al, in the system of Swander et al-Morehead et al for the purpose of controlling bandwidth between the server and terminals of the network(s).

Consider Claim 16, Swander et al-Morehead et al-Pandya et al discloses the method according to claim 15, wherein the changing of the conditions by generating the second conditions includes changing conditions of a flow defined by (i) an address of the terminal, (ii) a port number of the terminal, (iii) an -address of the server, and (iv) a port number of the server (Pandya et al, Col 9 Lines 34-50).

Consider Claim 18, Swander et al-Morehead et al-Pandya et al discloses the method according to claim 15 further comprising:

(i) a flow of packets transmitted via the first communication unit and the second communication unit (Pandya et al, Col 6 Lines 59-62) (ii) a bandwidth threshold value of the flow (Pandya et al, Col 8 Lines 44-57, Col 12 Lines 50-60), and (iii) a measured bandwidth value of the flow (Pandya et al, Col 15 Lines 53-67, Col 16 Lines 1-8), , a bandwidth of the classified flow, generating, via the measuring unit, a measured value based on the measured bandwidth, and storing the measured value within the information stored in the storing unit defining the classified flow (Pandya et al, Col 15 Lines 53-67, Col 16 Lines 1-8); comparing, via a judging unit of the repeater, the measured bandwidth of the classified flow with a bandwidth threshold value of the

Art Unit: 2154

information in the storing unit defining the classified flow (Pandya et al, Col 15 Lines 30-50), the bandwidth threshold value of the classified flow being represented by the first conditions, and judging, via the judging unit, whether or not transmission of the classified flow is acknowledged (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20); and transmitting, via at least one of the first communication unit and the second communication unit, packets belonging to the acknowledged classified flow, the transmitting being limited according to the second conditions representing the bandwidth threshold value of the classified flow (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20). Pandya et al discloses on how the bandwidth in the network by is recalculated, reallocated, based on measurements and threshold values (optimum and below optimum bandwidth) (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20).

Consider Claim 19, Swander et al-Morehead et al-Pandya et al discloses the method according to claim 18, further comprising setting the bandwidth threshold value of the classified flow stored in the storing unit (Pandya et al, Col 8 Lines 44-57, Col 12 Lines 50-60), wherein the bandwidth threshold value is set to a value that limits the transmission of the packets belonging to the classified flow to a narrow bandwidth (Pandya et al, Col 12 Lines 49-60), represented by the first conditions, until the server acknowledges the transmission of the classified flow, and wherein the bandwidth threshold value is set to a value that limits the transmission of the packets belonging to the classified flow to a wide bandwidth (Pandya et al, Col 15 Lines 30-50), represented

Art Unit: 2154

by the second conditions and being a wider bandwidth than the narrow bandwidth, once the server acknowledges the transmission of the classified flow (Pandya et al, Col 17 Lines 35-67, Col 18 Lines 1-20). Pandya et al discloses on how the bandwidth is reallocated (for example less to more) based on priority of the application or the service, or bandwidth can have limits enforced on it (Pandya et al, Col 8 Lines 46-57).

Claim 20, has similar limitations of Claim 18. Therefore it is rejected under the same rational as Claim 18.

Consider Claim 22, Swander et al-Morehead et al-Pandya et al discloses server according to claim 20, further comprising an encryption unit operable to decode an encrypted packet, wherein the communication unit is operable to notify the repeater of access control information concerning the encrypted packet (Pandya et al, Col 10 Lines 30-35). Pandya et al discloses on how VPN or IPSEC encrypted data can be transmitted on the network packet (Pandya et al, Col 10 Lines 30-35).

Claims 17, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swander et al (US Pub 20050022011), in view of Morehead et al, (US Pub 20020077801), and in view of Pandya et al (US Pat 7260635), and further in view of Jacobi et al (US Pat 6996818).

Consider Claim 17, Swander et al-Morehead et al-Pandya et al fail to disclose the method according to claim 15, wherein storing access control information in the server; storing the access control information in the repeater (Jacobi et al, Col 2 Lines 4-10, Col 4 Lines 17-25); and when the access control information is changed by the server, notifying the repeater that the access control information has changed.

Nonetheless, Jacobi et al discloses the storing of the access control information in the repeater (Jacobi et al, Col 2 Lines 4-10, Col 4 Lines 17-25); and when the access control information is changed by the server, notifying the repeater that the access control information has changed (Jacobi et al, Col 3 Lines 24-29). Jacobi does show on access control information can be stored in the system, and the system gets notified if there is an update to the code by the server(s) (Jacobi et al, Col 2 Lines 4-10, Col 3 Lines 24-29, Col 4 Lines 17-25). Therefore it would have been obvious to a person skilled in the invention to make use of storing access control information in the system, and notifying the system about any update changes to the access control information, taught by Jacobi et al, in the system of Swander et al-Morehead et al-Pandya et al for the purpose of controlling the repeater and having it receive updates on the software code if there are any changes from the other nodes/server(s) in the network.

Claim 21, has similar limitations of Claim 17. Therefore it is rejected under the same rational as Claim 17.

Response to Arguments

Applicant's arguments with respect to claims 15-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 5712701783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

April 14, 2008

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2154